

**NEW JERSEY
EARLY INTERVENTION SYSTEM**

**FEDERAL
PART C
STATE PLAN
UNDER**

**THE INDIVIDUALS WITH
DISABILITIES EDUCATION
ACT**

(IDEA)

Approved 3/9/99
Amended & Approved 2/11/2001
Amended & Approved 4/14/2003
Amended & Approved 9/21/2004

TABLE OF CONTENTS

| | |
|--|-----------|
| I. INTRODUCTION | Pg. 1 |
| II. GENERAL REQUIREMENTS | |
| A. Definitions | Pg. 2-8 |
| B. State Policy | Pgs. 8-11 |
| C. Description of Use of Funds | Pgs. 11 |
| D. Information About Public Participation | Pg. 11 |
| E. Services to all Geographic Areas | Pg. 12 |
| F. Transition to Preschool Programs | Pg. 12 |
| G. Timetables for Serving Eligible Children | Pg. 13 |
| H. Annual Performance Report | Pg. 13 |
| I. Annual Data Collection Report | Pg. 13 |
| III. REQUIREMENTS RELATED TO COMPONENTS OF A STATEWIDE SYSTEM | |
| A. State Eligibility Criteria and Procedures | Pg. 14 |
| B. Central Directory | Pg. 15 |
| C. Public Awareness Program | Pg. 15 |
| D. Comprehensive Child Find System | Pg. 16-18 |
| E. Evaluation and Assessment | Pg. 18-19 |
| F. Individualized Family Services Plan (IFSP) | Pg. 19-23 |
| G. Comprehensive System of Personnel Development (CSPD) | Pg. 23-24 |
| H. Personnel Standards | Pg. 24-28 |
| I. Procedural Safeguards | Pg. 28-37 |
| J. Supervision and Monitoring of Programs | Pg. 37-38 |
| K. Lead Agency Procedures for Resolving Complaints | Pg. 38 |
| L. Policies Related to Financial Matters | Pg. 39-43 |
| M. Data Collection | Pg. 43 |
| N. Natural Environments | Pg. 43-44 |

Introduction

New Jersey participates in Part C of the Individuals with Disabilities Education Act (IDEA) through the implementation of a statewide early intervention system of supports and services for eligible infants, toddlers and their families. In enacting Part C, Congress recognized four urgent and substantial needs: (1) to enhance the development of infants and toddlers with disabilities and minimize their potential for developmental delay; (2) to reduce the need for special education and related services after these infants and toddlers reach school age; (3) to maximize the likelihood that individuals with disabilities ultimately lead productive lives in the community; and (4) to enhance the capacity of families to meet the needs of infants and toddlers who have disabilities.

To meet these needs, Congress established Part C to provide financial assistance to states to:

- Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with developmental delays/disabilities and their families;
- Facilitate the coordination of payment for early intervention services from federal, state, local and private sources (including public and private insurance coverage); and
- To enhance states' capacity to provide quality early intervention services and expand and improve existing services.

Congress made clear that the success of this initiative requires interagency and community collaboration in providing and paying for appropriate early intervention supports and services. Part C recognizes that no one will ever be able to offer the full array of supports and services identified on the Individualized Family service Plan (IFSP).

The New Jersey Department of Health and Senior Services (DHSS), the lead agency for the Part C Early Intervention System since 1993, with the advice and assistance of the State Interagency Coordinating Council (SICC) has developed a vision and mission that guides and directs the Part C Early Intervention System of supports and services. New Jersey has also established Regional Early Intervention Collaboratives (REICs) to facilitate family and community involvement in the Early Intervention System and to assure that local resources are coordinated to assist families to meet the needs of their infants and toddlers with developmental delays and disabilities.

PART II

GENERAL APPLICATION REQUIREMENTS

A. DEFINITIONS (303.6 - 303.22)

The definitions below conform to the regulatory definitions set out in the June 22, 1989 and April 14, 1998, Federal Regulations for the Early Intervention Program for Infants and Toddlers with Disabilities (34 CFR Part 303) and the 1991 Amendment to IDEA:

- **ACT (303.6)**
The Individuals with Disabilities Education Act
- **CHILDREN (303.7)**
Infants and toddlers with disabilities
- **COUNCIL (303.8)**
State Interagency Coordinating Council on Infants and Toddlers (SICC)
- **DAYS (303.9)**
Calendar days
- **DEVELOPMENTAL DELAY (303.10)**
This definition is contained in Part III, Section I of this application
- **EARLY INTERVENTION PROGRAM (303.11)**
Total effort in the state to meet needs of eligible children/families
- **EARLY INTERVENTION SERVICES (303.12)**
 1. Services that:
 - a. Are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development;
 - b. Are selected in collaboration with parents; and
 - c. Are provided:
 - i. Under public supervision;
 - ii. By qualified personnel as defined in 34 CFR Part 303.21;
 - iii. In conformity with an IFSP; and
 - iv. At no cost, unless, subject to 303.520(b) (3), federal or state law provides for a system of payments by families, including a schedule of sliding fees.
 - d. Meets New Jersey's state standards.
 2. Natural Environments
Early intervention services are provided in natural environments, to the maximum extent appropriate to the needs of the child, including the home and community settings in which children without disabilities participate.
 3. General Role of Service Providers
To the extent appropriate, service providers in each area of early intervention services are responsible for:
 - a. Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area.
 - b. Training parents and others regarding the provision of those services.
 - c. Participating in multidisciplinary team's assessment of the child/family; and participating in development of integrated IFSP goals and outcomes for the individualized family service plan.
 4. Early Intervention Services includes:
 - a. **Assistive technology devices and assistive technology service:**
 - i. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

- ii. Assistive technology service means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.
- b. **Assistive technology services include:**
 - i. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
 - ii. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
 - iii. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
 - iv. Coordinating and using other therapies, intervention, or services with assistive technology devices, such as those associated with existing education, and rehabilitation plans and programs;
 - v. Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and
 - vi. Training or technical assistance for professionals (including individuals providing early intervention services), or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities.
- c. **Audiology includes:**
 - i. Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;
 - ii. Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiologic evaluation procedures;
 - iii. Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;
 - iv. Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
 - v. Provision of services for prevention of hearing loss; and
 - vi. Determination of the child's need for individual amplification including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.
- d. **Family training, counseling and home visits** means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.
- e. **Health services** (see definition under Health Services 303.13 in this section).
- f. **Medical services** only for diagnostic or evaluation purposes means services provided by a licensed physician to determine a child's developmental status and need for early intervention services.
- g. **Nursing services** includes:
 - i. The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
 - ii. Provision of nursing care to prevent health problems, restore or improve functioning and promote optimal health and development; and
 - iii. Administration of medications, treatments, and regimens prescribed by a licensed physician.
- h. **Nutrition services** includes:
 - i. Conducting individual assessments in:
 - (a) Nutritional history and dietary intake;
 - (b) Anthropometric, biochemical, and clinical variables;
 - (c) Feeding skills and feeding problems; and

- (d) Food habits and food preferences.
 - ii. Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part based on assessment findings; and
 - iii. Making referrals to appropriate community resources to carry out nutrition goals.
- i. **Occupational therapy** includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:
 - i. Identification, assessment and intervention;
 - ii. Adaption of the environment and selection design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
 - iii. Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.
- j. **Physical therapy** includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaption. These services include:
 - i. Screening, evaluation and assessment of infants and toddlers to identify movement dysfunction;
 - ii. Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - iii. Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.
- k. **Psychological services** includes:
 - i. Administering psychological and developmental tests, and other assessment procedures;
 - ii. Interpreting assessment results;
 - iii. Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and
 - iv. Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.
- l. **Service coordination** means assistance and services provided by a service coordinator to the eligible child and the child's family that are in addition to the functions included under service coordination (303.23).
- m. **Social work services** includes:
 - i. Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
 - ii. Preparing a social or emotional developmental assessment of the child within the family context;
 - iii. Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;
 - iv. Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and
 - v. Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

- n. **Special instruction** includes:
 - i. The design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
 - ii. Curriculum planning, including the planned interaction of personnel, materials, and time and space that leads to achieving the outcomes in the IFSP;
 - iii. Providing families with information, skills, and support related to enhancing the skill development of the child; and
 - iv. Working with the child to enhance the child's development.
- o. **Speech-Language Pathology** includes:
 - i. Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
 - ii. Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and
 - iii. Provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.
- p. **Transportation and related costs** includes the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses that are necessary to enable a child eligible under this part and the child's family to receive early intervention services.
- q. **Vision Services** means:
 - i. Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;
 - ii. Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both, and
 - iii. Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.
- r. **Qualified personnel**
 Early intervention services must be provided by qualified personnel, including:
 - i. Audiologist;
 - ii. Family Therapists;
 - iii. Nurses;
 - iv. Nutritionists;
 - v. Occupational therapists;
 - vi. Orientation and mobility specialists;
 - vii. Physical therapists;
 - viii. Pediatricians and other Physicians;
 - ix. Psychologist;
 - x. Social workers;
 - xi. Special educators; and
 - xii. Speech/language pathologists.
- **HEALTH SERVICES (303.13)**
 Services necessary to enable a child to benefit from the other early intervention services, provided under Part C, during the time that the child is receiving the other early intervention services.
 - 1. The term includes:
 - a. Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressing or colostomy collection bags, and other health services; and

- b. Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.
 - 2. The term does not include:
 - a. Services that are:
 - i. Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or
 - ii. Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose).
 - b. Devices necessary to treat/control medical conditions;
 - c. Medical-health services (such as immunizations and regular “well-baby” care) that are routinely recommended for all children.
- **IFSP (303.14)**
Individualized Family Service Plan defined in 34 CFR Part 303.340 (b). See Part III, Component F in this application.
- **INCLUDE, INCLUDING (303.15)**
The items named are not all of the possible items that are covered whether like or unlike the ones named.
- **INFANTS & TODDLERS WITH DISABILITIES (303.16)**
 - 1. Individuals from birth through age two who need early intervention services because they:
 - a. Are experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following areas:
 - i. Cognitive development;
 - ii. Physical development, including vision and hearing;
 - iii. Communication development;
 - iv. Social/Emotional development;
 - v. Adaptive development; or
 - b. Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay;
 - 2. States may also include children from birth through two who are at risk of having substantial developmental delays if early intervention services are not provided.
- **INFORMED CLINICAL OPINION**
Judgments made by qualified personnel in regard to the developmental status of a child which are utilized for purposes of evaluation, assessment, and preparation of an individualized family service plan. Such judgments may be based upon observations, interviews, or other appropriate techniques. The use of informed clinical opinion in the decision-making process should be described and documented in any written reports related to the evaluation/assessment/IFSP process.
- **MULTIDISCIPLINARY (303.17)**
Involvement of two or more disciplines or professions in the provision of integrated and coordinated services including evaluation and assessment activities and development of the IFSP.
- **NATURAL ENVIRONMENTS (303.18)**
Natural environments means settings that are natural or normal for the child’s age peers who have no disabilities.
- **PARENT (303.19)**
 - 1. A parent means a natural or adoptive parent of a child; a guardian, a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare). The term does not include the state if the child is a ward of the state.

2. A surrogate parent who has been appointed in accordance with 303.406. Unless parental rights have been terminated by a court of appropriate jurisdiction, the natural parent retains all rights under Part C.
 3. A foster parent may act as a parent under Part C if:
 - a. The natural parent's authority to make the decisions required of parents under Part C has been extinguished under state law;
 - b. The foster parent has an ongoing, long-term parental relationship with the child;
 - c. The foster parent is willing to make the decisions required of parents under Part C; and
 - d. The foster parent has no interest that would conflict with the interests of the child.
- **POLICIES (303.20)**
State statutes, regulations, Governor's orders, directives by DHSS or other written documents that represent the state's position concerning any matter covered under Part C of IDEA.
 1. State policies include:
 - a. A state's commitment to the statewide system (see 303.140);
 - b. A state's eligibility criteria and procedures (see 303.300);
 - c. Consistent with 303.520, a statement that services are provided at no cost to parents, except where a system of payments is provided for under federal or state law;
 - d. A state's standards for personnel who provide services to eligible children (see 303.361);
 - e. A state's position and procedures related to contracting or making other arrangements with service providers; and
 - f. Other positions the state has adopted related to implementing any of the Part C requirements.
 - **PUBLIC AGENCY (303.21)**
Includes the DHSS and any other political subdivision of the state that is responsible for providing early intervention services to children eligible under this part and their families, including the following:
 1. Early intervention providers receiving funds through the Department of Health and Senior Services to provide early intervention services;
 2. A public or private early intervention provider identified in the IFSP as providing an early intervention service to meet the unique needs of the child and family.
 - **QUALIFIED (303.22)**
Means that a person has met state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.
 - **SERVICE COORDINATION (303.23)**
 1. Service coordination includes:
 - a. Activities carried out by a service coordinator to assist and enable a child eligible under Part C and the child's family to receive the rights, procedural safeguards, and services authorized under New Jersey's early intervention system.
 - b. Each child eligible under this part and the child's family must be provided with one service coordinator who is responsible for:
 - i. Coordinating all services across agency lines; and
 - ii. Serving as a single point of contact in helping parents to obtain the services and assistance they need.
 - c. Service coordination is an active ongoing process that involves:
 - i. Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the IFSP;
 - ii. Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided;
 - iii. Facilitating the timely delivery of available services; and

- iv. Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.
- 2. Service coordination activities include:
 - a. Coordinating the performance of evaluations and assessments;
 - b. Facilitating and participating in the development, review and evaluation of IFSPs;
 - c. Assisting families in identifying available service providers;
 - d. Coordinating and monitoring the delivery of available services;
 - e. Informing families of the availability of advocacy services;
 - f. Coordinating with medical and health providers; and
 - g. Facilitating the development of a transition plan to preschool services, if appropriate.
- 3. Service Coordinators may be employed or assigned in any way that is permitted under state law, so long as it is consistent with the requirements of this part.
 - a. State policies and procedures for implementing early intervention services must be designed and implemented to ensure service coordinators are able to effectively carry out on an interagency basis the functions and services listed above under 1 and 2.
 - b. While the service coordinator is responsible for ensuring that all activities are facilitated, coordinated and completed, the IFSP may identify other providers or family members to conduct specific activities.
- 4. Service coordinators must be persons who, consistent with 303.344(g), have demonstrated knowledge and understanding about the following:
 - a. Eligible infant/toddlers;
 - b. Part C of the Act and the regulations; and
 - c. Nature and scope of services available under the state's early intervention program, system of payments, and other pertinent information.
- **TRANSPORTATION AND RELATED COSTS**
 Cost of travel and related costs that are necessary to enable a child/family to receive early intervention services.

NOTE - Definitions from the "Education Department General Administrative Regulation (EDGAR)" that apply to Part C are included as an attachment.

B. STATE POLICY (303.140 - 303.144 and 303.500)

- **GENERAL STATEMENT OF POLICY (303.140)**
 - 1. This state application contains information and assurances demonstrating to the satisfaction of the Secretary that the statewide system of early intervention services required in Part C is in effect; and
 - 2. State policy is in effect that ensures appropriate early intervention services are available to all infants and toddlers with disabilities in the state and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state.
- **STATE INTERAGENCY COORDINATING COUNCIL (SICC) (303.141 & Subpart G)**
 New Jersey has established a State Interagency Coordinating Council (SICC) that meets the requirements of Part C, Subpart G.
 - 1. **Establishment of Council (303.600)**
 - a. The members of the State Interagency Coordinating Council (SICC) on Infants and Toddlers are appointed by the Governor to provide guidance to the Department of Health and Senior Services in developing and implementing the New Jersey's early intervention program.
 - b. Federal requirements under Part C have been incorporated into state policy through enactment of state legislation, P.L. 1993, Chapter 309.
 - c. The Governor appoints a chairperson who is not a representative of the DHSS.

2. Composition (303.601)

- a. At least twenty percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities who are twelve years of age or younger who have knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one of the members described in this section must be a parent of an infant or toddler with a disability or a child with a disability who is six years of age or younger.
- b. At least twenty percent of the members must be public or private providers of early intervention services.
- c. At least one member must be a member of the state legislature.
- d. At least one member must be involved in personnel preparation.
- e. Each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families must be represented by at least one member. The members described in this section must have sufficient authority to engage in policy planning and implementation on behalf of the state agency the member represents.
- f. At least one member must represent a state educational agency responsible for preschool services to children with disabilities and must have sufficient authority to engage in policy planning and implementation on behalf of the agency.
- g. At least one member must represent the agency responsible for the state governance of health insurance.
- h. At least one representative from a Head Start agency or program in the state.
- i. At least one representative from a state agency responsible for child care.
- j. Other members selected by the Governor, including a representative from the Bureau of Indian Affairs or where there is no school operated or funded by the BIA from the Indian Health Service or the tribe or tribal council. There is no entity in New Jersey at present that maintains tribal status.

3. Use of Funds by the Council (303.602)

- a. The State Interagency Coordinating Council is provided annual funding to adopt a budget and expend funds as permitted by federal law.
- b. Except as provided in 303.602 (a), SICC members shall serve without compensation from funds available under this part.
- c. In accordance with 303.602 (a), the SICC may use funds to:
 - i. Conduct hearings and forums;
 - ii. Reimburse SICC members for reasonable and necessary expenses for attending SICC meetings and performing SICC duties, including child care for parent representatives;
 - iii. Pay compensation to an SICC member if member is not employed or must forfeit wages from other employment when performing official SICC business;
 - iv. Hire staff; and
 - v. Obtain the services of professional, technical, and clerical personnel, as may be necessary to carry out the performance of its functions.

4. Meetings (303.603)

- a. SICC meetings are held at least quarterly each year.
- b. Meetings are publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend.
- c. To the extent appropriate, meetings are open and accessible to the general public.
- d. Interpreters for both SICC members and participants and other services are provided as necessary.
- e. The SICC may use Part C funds if necessary to pay for these services.

5. **Conflict of Interest (303.604)**

No member of the SICC may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

6. **Functions (303.650)**

The SICC shall:

- a. Advise and assist the DHSS in the development and implementation of the policies that constitute the statewide system;
- b. Assist the DHSS in achieving the full participation, coordination, and cooperation of all appropriate public agencies in the state;
- c. Assist the DHSS in the effective implementation of the statewide system, by establishing a process that includes:
 - i. Seeking information from service providers, service coordinators, parents, and others about any federal, state, or local policies that impede timely service delivery; and
 - ii. Taking steps to ensure that any policy problems identified under (c) (i) of this section are resolved.
- d. To the extent appropriate, assist the DHSS in the resolution of disputes.
- e. The SICC may advise and assist the DHSS and the New Jersey Department of Education regarding the provision of appropriate services for children ages birth to five inclusive.
- f. The SICC may advise appropriate agencies in the state with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families regardless of whether at-risk infants and toddlers are eligible for early intervention services.

7. **Advising & Assisting the Lead Agency in its Administrative Duties (303.651)**

The SICC shall advise and assist the Department of Health and Senior Services in the:

- a. Identification of sources of fiscal and other support for services for early intervention programs;
- b. Assignment of financial responsibility to the appropriate agency; and
- c. Promotion of the interagency agreements under 303.523.

8. **Applications (303.652)**

The SICC shall advise and assist the Department of Health and Senior Services in the preparation of applications under Part C and amendments to those applications.

9. **Transitional Services (303.653)**

The SICC shall advise and assist the New Jersey Department of Education regarding the transition of toddlers with disabilities to services provided under Part B to preschool and other appropriate services, to the extent services are appropriate.

10. **Annual Report to the Secretary (303.654)**

The SICC shall:

- a. Prepare an annual report to the Governor and to the Secretary on the status of early intervention programs operated within the state for children eligible under Part C and their families; and
- b. Submits report to the Secretary by a date that the Secretary establishes. Each annual report contains information required by the Secretary for the reporting year.

• **DESIGNATION OF LEAD AGENCY (303.142)**

The New Jersey Department of Health and Senior Services (DHSS) was designated as the lead agency for implementation of IDEA, Part C, by the Governor of the State of New Jersey effective July 1, 1993. This designation was affirmed by the New Jersey Legislature with the passage of P.L. 1993, Chapter 309. This law placed the administrative responsibility, including the administration of funds provided under Part C, with the Department of Health and Senior Services and repealed section 3 of P.L. 1981, c.415 (C.18A:46-6.2) which originally mandated the Department of Education to provide early intervention services. Section 3 was amended in 1992

(P.L.1992, c.155), effective July 1, 1993, to transfer the responsibility for early intervention services from the Department of Education to the Department of Health and Senior Services; however, the allocation of the statute remained in Title 18A (Education) of the New Jersey Statutes. This legislation repealed the statute in Title 18A and replaced it with similar statutory language, updated to reflect federal law, that would be allocated in Title 26 (Health) of the revised statutes.

- **DESIGNATION REGARDING FINANCIAL RESPONSIBILITY (303.143)**
New Jersey has designated the Department of Health and Senior Services, in consultation with the Departments of Education and Human Services, to be responsible for assigning financial responsibility among appropriate agencies for the state early intervention system.
- **ASSURANCES REGARDING USE OF FUNDS (303.144)**
The Department of Health and Senior Services, in cooperation with the State Interagency Coordinating Council and in conjunction with the Departments of Education and Human Services, assures that funds received under Part C are used to assist the state to maintain and implement a statewide system required under Part C, Subparts D through F.

C. DESCRIPTION OF USE OF FUNDS (303.145)

- **Use of Funds to meet all the requirements in 303.145**
In addition to Federal Part C funds, New Jersey supports the early intervention system outlined under use of funds description in the Part C Application with state aid and Medicaid revenue.
- The Annual State Application under Part C of the Individuals with Disabilities Education Act (CFDA No. 84.181A) provides a description of use of funds for the Federal Fiscal Year Award.

D. INFORMATION ABOUT PUBLIC PARTICIPATION (303.146)

- **GENERAL REQUIREMENTS AND TIMELINES FOR PUBLIC PARTICIPATION (303.110)**
 1. Before submitting the Part C application to the Secretary and before adopting a new or revised policy that is not in the current application, the application or policy will be published in a manner that ensures:
 - a. Circulation throughout the state for at least a sixty (60) day period, with an opportunity for comment for at least a thirty (30) days during the sixty day period;
 - b. Public hearings are held during the sixty day period required in (1) (a); and
 - c. Adequate notice of the hearing is provided at least thirty days before the dates that the hearings are conducted as required in (1) (b).
- **NOTICE OF PUBLIC HEARINGS AND OPPORTUNITIES TO COMMENT (303.111)**
 1. The notice must be published in newspapers or announced in other media, or both, with coverage adequate to notify the general public, including individuals with disabilities and parents of infants and toddlers with disabilities, throughout the state about the hearings and opportunity to comment on the application or policy. Opportunities include:
 - a. SICC meetings;
 - b. SICC committees and task forces;
 - c. Dissemination of the Part C application and notice of public hearings using state and SICC mailing lists of agencies and individuals throughout New Jersey concerned with early intervention services;
 - d. Accessibility of the Part C application at the four Regional Early Intervention Collaboratives (REICs) and six public library locations throughout the state;
 - e. Publication of a notice of public hearing in at least three major newspapers throughout New Jersey.
 2. The notice must be in sufficient detail to inform the public about:
 - a. The purpose and scope of the state application or policy, and its relationship to Part C of the Act;
 - b. The length of the comment period and the date, time, and location of each hearing; and

- c. The procedures for providing oral comments or submitting written comments.
- **PUBLIC HEARINGS (303.112)**
 1. Scheduled public hearings are held in a sufficient number and at times and at locations geographically distributed throughout the state to receive direct testimony of interested persons.
- **REVIEWING AND REPORTING ON PUBLIC COMMENTS RECEIVED (303.113)**
 1. Before adopting an application, and before the adoption of new or revised policy not in the application, the DHSS shall-
 - a. Review and consider all public comments; and
 - b. Make any modifications deemed necessary in the application or policy.
 2. In submitting the state's application or policy to the Secretary, the DHSS shall include copies of news releases, advertisements, and announcements used to provide notice to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities.

E. SERVICES TO ALL GEOGRAPHIC AREAS (303.147)

- In order to ensure that resources under Part C are made available for all geographic areas within the state, the SICC and DHSS have used the following procedures:
 1. All DHSS and SICC committees, task forces, and work groups have been developed to include representation from all regions of the state.
 2. State and federal funds used for the provision of early intervention services are distributed on a population basis either by county or region. The funds distributed included consideration of children/families currently receiving services and children/families projected to need services based on census and birth information.
 3. All of the state's twenty-one counties have at least one state funded Early Intervention Program Provider and one SCHS-Case Management Unit to provide Part C services.
 4. The four Regional Early Intervention Collaboratives (REICs) are responsible for conducting ongoing needs assessments for their regions and establishing regional priorities for the use of funds.

F. TRANSITION TO PRESCHOOL PROGRAMS (303.148)

- To ensure a smooth transition for children under Part C who are eligible for preschool under Part B or other appropriate services, the following procedures will be used:
 1. By Interagency Agreement, transition guidelines have been endorsed by the DHSS and the Department of Education that establish a process which includes participation of the parents and the staff of the sending and receiving agencies.
 2. In New Jersey's Early Intervention 'Policies, Procedures, and Guidelines' and contract requirements, early intervention program providers contracted by the Department of Health and Senior Services serving infants and toddlers who they believe may be eligible at three years of age for early childhood special education shall participate in transition planning.
 3. Planning for transition must be addressed in each child's Individualized Family Service Plan (IFSP).
 - a. The service coordinator facilitates transition at least 8-12 months prior to the child's third birthday by holding a transition information meeting with the family and early intervention program providers as desired by the family.
 - b. At the transition information meeting the following information is discussed: options for community transitions, process to notify the local school district that the child may be eligible for special education, and preparing for a transition planning conference, including an opportunity for record review. If the child is between age of 24-35

months when determined eligible, the transition information meeting is addressed as part of the child's initial IFSP.

4. The service coordinator, with parent consent, identifies the child to the local school district at least 24-32 months before the child's third birthday.
5. With parent consent, the service coordinator, shall convene a conference with the appropriate early intervention program providers, the family, and the local education agency (LEA) at least 90 days and at the discretion of all such parties, up to six months prior to the child's eligibility under Part B, to discuss any services the child may receive. The meeting shall:
 - a. Review the child's program options for the period from third birthday through the remainder of the school year; and
 - b. Establish a transition plan.
6. In the case of a child who may not be eligible for such preschool services under Part B, with the approval of the family, make reasonable efforts to convene a conference among the DHSS, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive.

G. TIMETABLES FOR SERVING ELIGIBLE CHILDREN (303.163)

- New Jersey's application contains:
 1. All information and assurances required in 303.141 - 303.148 are found in Section II, the General Application Requirements in the state application. All information and assurances required in 303.161 - 303.176 are found in Section III, Requirements Related To Components Of a statewide System;
 2. The state has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the state and their families, including Indian infants and toddlers with disabilities and their families with disabilities residing on a reservation geographically located in the state. Currently, New Jersey has no Indian children living on reservations;
 3. The state has in effect a statewide system that meets the requirements of section 635. The DHSS assures that the early intervention system is in effect in Section I, B, Required Assurances. P.L. 1993, Chapter 309 sets New Jersey's information and assurances that the statewide system of early intervention services is in effect; and
 4. Consistent with state policy, funds under section 619 of Part B may be used to provide a free appropriate public education (FAPE) to two (2) year old children with disabilities who will reach age three (3) during the school year. Part C does not apply to any child with disabilities receiving FAPE with funds under section 619 of Part B of IDEA.

H. ANNUAL PERFORMANCE REPORT (EDGAR 80.40(b))

- The Department of Health and Senior Services, in coordination with the SICC submits an annual Performance Report to the Office of Special Education Programs.

I. ANNUAL DATA COLLECTION REPORT (303.540)

- The December 1 report of infants and toddlers receiving early intervention services in accord with Part C is submitted to the Office of Special Education by February 1, as required under section 676(b) (14) of the Act.

PART II

REQUIREMENTS RELATED TO COMPONENTS OF A STATEWIDE SYSTEM

A. STATE ELIGIBILITY CRITERIA AND PROCEDURES (303.300)

The following components pertain to a statewide system of early intervention services required under Part C for infants and toddlers, birth to age three, with disabilities, and their families. These policies shall guide the procedures to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services.

- **STATE DEFINITION OF DEVELOPMENTAL DELAY (303.16)**

Infants and toddlers, ages birth up to their third birthday, will be considered eligible to receive early intervention services because they:

1. Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, including clinical opinion, in one or more of the following developmental areas:
 - a. Physical, including gross motor; fine motor; and sensory (vision and hearing)
 - b. Cognitive
 - c. Communication
 - d. Social or emotional
 - e. Adaptive
 - When using standardized assessment or criterion-referenced measures to determine eligibility, a developmental delay is defined as a delay of 33% in one and/or 25% in two or more development areas. Percentages are calculated on the basis of corrected age for infants born before 38 weeks gestation and applying until 24 months of age. Corrected age is based on 40 weeks term. For infants born at or after 38 weeks gestation there shall be no correction in age.
 2. Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. This high risk category includes children who have identified conditions but who may not be exhibiting delays in development at the time of diagnosis. The categories of physical and mental conditions include:
 - a. Chromosomal abnormalities
 - b. Genetic or congenital disorders
 - c. Severe sensory impairments, including vision & hearing
 - d. Inborn errors of metabolism
 - e. Disorders reflecting disturbance of the development of the nervous system
 - f. Congenital infections
 - g. Disorders secondary to exposure to toxic substances, including fetal alcohol syndrome
 - h. Severe attachment disorders
 - Eligibility within this category will be determined based on a statement/report signed by a physician or psychologist, as appropriate, indicating the condition which is likely to lead to developmental delay.
 - The child's multidisciplinary evaluation and assessment must result in a determination that the identified condition(s) are associated with developmental concerns, and that early intervention services would be appropriate to meet the needs of the child. This determination will be based on informed clinical opinion, not on a specific diagnosis only.
- New Jersey chooses not to include children, from birth to age three, who are at risk of substantial developmental delays if early intervention services are not provided.

B. CENTRAL DIRECTORY (303.301)

- The Central Directory for New Jersey assures that information is available about:
 1. Public and private early intervention services, resources, and experts in the state;
 2. Research and demonstration projects being conducted in the state; and
 3. Professional and other groups that provide assistance to children eligible under Part C and their families.
- The Central Directory includes information in sufficient detail to:
 1. Ensure that the public can determine the nature and scope of services and assistance available from each source listed in the central directory; and
 2. Enable the parent of an eligible child to contact, by telephone, e-mail, or letter, central directory sources.
- New Jersey's Central Directory, 'Resources', provides information and referral to the general public through a toll free hot line number, printed publication, and internet. The directory database is updated continually and available through the toll free number and internet.
 1. 'Resources' the toll free telephone number is maintained by the New Jersey Department of Human Services, Division of Disabilities Services (DDS). The Division of Disability Services provides information and referral services to people with disabilities and their families, who are seeking help locating appropriate resources in their communities.
 2. The Division of Disability Services offers an information and referral service through the toll-free number **1-888-285-3036**. This telephone number serves as a point of entry into the often-confusing system of national, state, county and local services for the disabled, and can be particularly helpful to people who do not meet the various requirements for programs for people with specific types of disabilities. The Information and Referral Service also can provide information on issues that cut across more than one disability.
 3. DDS also annually publishes the New Jersey Resources Directory, the most complete guide available of information on private and public agencies and offices that serve people with disabilities in New Jersey. Statewide distribution assures that the central directory is accessible to the general public. The central directory is distributed to parent groups, advocacy groups, early intervention providers, local education associations, hospitals, human services agencies, and university/colleges throughout the state and to the general public upon request. The DHSS coordinates with the DDS to arrange for copies of the directory to be available in each geographic region of the state, including rural areas, and in places and a manner that ensure accessibility by persons with disabilities.
 4. Collaborative efforts exist between Project Child Find at the Department of Education and public awareness efforts by the DHSS, and REICs. Information regarding the central directory is disseminated by mail throughout the state, and coordinated with public and professional awareness activities. This includes mailings of informational packets of materials to physicians, parent resource groups, professional organizations, community agencies, hospitals, clinics, advocacy groups, etc. Part C funds will be used to provide partial support for the existing Central Directory.

C. PUBLIC AWARENESS PROGRAM (303.320)

- The New Jersey Department of Health and Senior Services ensures that a continuous, ongoing public awareness program is in effect throughout all areas of the state, including rural areas.
 1. The public awareness program focuses on the early identification of children who are eligible to receive early intervention services and includes:
 - a. The preparation and dissemination of informational materials to all primary referral sources, especially hospitals and physicians, for those sources to disseminate to parents.
 - b. Informational materials are disseminated to all major organizations including public agencies at the state and local level, private providers, professional associations, parent

- groups, and advocate associations on the nature and availability of the early intervention services.
- c. Brochures, newsletters, fact sheets, displays, public service announcements, news stories, and other media are used to reach the largest possible audience.
- d. Information on New Jersey's Early Intervention System is electronically accessible through the state Website of the Department of Health and Senior Services at www.state.nj.us/health/fhs/eiphome.htm.
- e. Coverage will be broad enough to reach the general public.
- 2. The public awareness program informs the public about:
 - a. The state early intervention system;
 - b. The child find system' including the purpose and scope of the system, how to make referrals, and how to access a comprehensive and multidisciplinary evaluation and other early intervention services; and
 - c. The central directory.

D. COMPREHENSIVE CHILD FIND SYSTEM (303.321)

- The comprehensive child find system as required by 303.321 shall be consistent with Part B of the Act and is implemented by the Department of Education in conjunction with the Department of Health and Senior Services and with the assistance of the State Interagency Coordinating Council (SICC). Part C funds will be used to provide partial support for the existing Child Find System.
 - 1. The DHSS ensures that all eligible children, including children with disabilities attending private school programs, in New Jersey are identified, located and evaluated through written contracts with Regional Early Intervention Collaboratives (REICs) and local service providers. REICs and local service providers report to the DHSS those identified children receiving required early intervention services.
 - 2. The DHSS, with the assistance of the SICC, ensures that the child find system under Part C is in coordination with all other major efforts to locate and identify children conducted by REICs and other state agencies responsible for administering the various education, health and social services programs relevant to Part C, including efforts in the:
 - a. Program authorized under Part B of the Act;
 - b. Maternal and Child Health program under Title V of the Social Security Act;
 - c. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program under Title XIX of the Social Security Act;
 - d. Developmental Disabilities Assistance and Bill of Rights Act;
 - e. Head Start Act;
 - f. Supplemental Security Income program under Title XVI of the Social Security Act;
 - g. Tribes and tribal organizations that receive money under this part;
 - h. Other tribes and tribal organizations as appropriate; and
 - i. New Jersey Healthy Families Projects.
 - 3. By state level interagency agreement, the coordination of all major child find efforts includes steps by which the DHSS, with assistance of the SICC, shall ensure that no unnecessary duplication of effort by involved agencies exists and that the state uses all resources available through each public agency.
 - 4. The Department of Health and Senior Services and SICC have coordinated, through the local Special Child Health Services County Case Management Units (SCHS-CMU), the development of a county single point of referral for use by primary referral sources in collaboration with other agencies.
 - 5. Public awareness materials are distributed to the public providing information on the purpose and scope of the system, how to make referrals, and how to access evaluation and early intervention services to primary referral sources on a statewide basis. The

Department of Education and Division of Disabilities Services have toll free numbers to assist families who do not know whom to contact in their local community.

6. A statewide list of SCHS-CMUs for referring children into the early intervention system is disseminated to all primary referral sources through the Department of Education Child Find Project, Resources the Central Directory, and Regional Early Intervention Collaboratives (REICs). The REICs develop additional materials to complement and supplement this list, describing the specifics of their region. The comprehensive child find system includes referral procedures that:
 - a. Are used by primary referral sources for referring child to the appropriate SCHS-Case Management Unit for:
 - i. Evaluation and assessment consistent with 303.322 and .323.
 - ii. As appropriate provision of services consistent with 303.42 (a) or .345.
 - b. Procedures required:
 - i. Provide effective methods for making referrals by primary referral sources.
 - ii. Ensure that referrals are made within two working days after the child has been identified.
 - iii. Include procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on availability of early intervention services to parents of infants with disabilities:
 - (a) State and regional records will be maintained regarding the quantity of public awareness materials distributed to primary referral sources through annual mailings.
 - (b) Volume of requests for materials will be used to determine the extent that primary referral sources are distributing materials. Intake forms will record requests for child find materials including name/address of individual/agency making the request; referral source (hospital, physician, parent, etc.); month /year of request; type/quantity of materials requested.
 - (c) Regional Early Intervention Collaboratives will make ongoing contact with primary referral sources to ascertain the quantity of public awareness materials that have been requested.
 - (d) During the initial contact with a referred child's family, the service coordinator will ask and record how the family was informed about the availability of early intervention services.
 - c. Primary referral sources include:
 - i. Hospitals, including prenatal and postnatal care facilities;
 - ii. Physicians;
 - iii. Parents;
 - iv. Child care programs;
 - v. Local education agencies;
 - vi. Local early intervention programs/providers;
 - vii. Public health agencies;
 - viii. Other social service agencies;
 - ix. Other health care providers; and
 - x. Parent/Professional organizations.
 - d. Once a SCHS-Case Management Unit receives a referral, it appoints a service coordinator as soon as possible.
 - e. Within 45 days of receipt of referral, the service coordinator will arrange for the completion of evaluation and assessment activities consistent with Part C and hold an initial IFSP meeting consistent with Part C. By Department of Health and Senior Services early intervention criteria, participating early intervention program providers must cooperate in meeting the timelines in the evaluation process.

7. Through Special Child Health Services Case Management Units, Part C funds are used to strengthen the statewide system by improving collaborative efforts related to at-risk infants and toddlers registered with the state Birth Defects and Special Needs Registry, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of -
 - a. Identifying and evaluating at-risk infants and toddlers registered with the state Birth Defects and Special Needs Registry;
 - b. Making referrals of the infants and toddlers identified and evaluated; and
 - c. As appropriate, conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under Part C.

E. EVALUATION AND ASSESSMENT (303.322)

• GENERAL

1. The New Jersey Early Intervention System includes procedures to assure the performance of timely, comprehensive multidisciplinary evaluation of each child birth to age three, referred for evaluation, including assessment activities related to the child and family.
2. Contracts developed by the Department of Health and Senior Services (DHSS) in regard to early intervention services include an assurance that the contractual grantee agrees to develop and maintain a system of comprehensive early intervention services, in accordance with all applicable federal and state laws, regulations, policies, and standards, including IDEA, Part C.
3. The DHSS is responsible for ensuring that the requirements of this section are implemented by all affected public agencies and service providers in New Jersey.

• DEFINITIONS OF EVALUATION AND ASSESSMENT

1. Evaluation means the procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of "infants and toddlers with disabilities" in 303.16, including determining the status of the child in each of the developmental areas in paragraph (c) (3) (ii) of section 303.322 in 34 CFR Part 303, Early Intervention Program for Infants and Toddlers with Disabilities; Final Rule.
2. Assessment means ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility under this part to identify:
 - a. The child's unique strengths and needs and the early intervention services appropriate to meet those needs; and
 - b. The resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability.

• EVALUATION AND ASSESSMENT OF THE CHILD MUST:

1. Be conducted by personnel trained to utilize appropriate methods and procedures;
2. Be based on informed clinical opinion. Informed clinical opinion means judgments made by qualified personnel in regard to the developmental status of a child, which are utilized for purposes of evaluation, assessment, and preparation of an individualized family services plan. Such judgments may be based upon observation, interviews, or other appropriate techniques. The use of informed clinical opinion in the decision making process should be described and documented in any written reports related to the evaluation/assessment, IFSP process, and
3. Include the following:
 - a. A review of pertinent records related to the child's current health status and medical history.
 - b. An evaluation of the child's level of functioning in each of the following developmental areas:

- i. Physical, including gross motor, fine motor; vision and hearing;
 - ii. Cognitive development;
 - iii. Communication development;
 - iv. Social/emotional development; and
 - v. Adaptive development.
- c. The identification of appropriate services to meet the needs in the above listed areas.
- **FAMILY-DIRECTED ASSESSMENT**
 - 1. Family-directed identification of the needs of each family of such an infant or toddler to appropriately assist in the development of the infant or toddler and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child;
 - 2. Is voluntary on the part of the family; and
 - 3. If an assessment of the family is carried out, the assessment will:
 - a. Be conducted by personnel trained to utilize appropriate methods and procedures;
 - b. Be based on information provided by the family through personnel interview; and
 - c. Incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development.
- **TIMELINES**
 - 1. The evaluation and initial assessment of each child (including the family-directed assessment) shall be completed within 45 days of referral.
 - 2. In accordance with early intervention services criteria, the Department of Health and Senior Services has in place procedures to ensure that in the event of exceptional circumstances that make it impossible to complete the evaluation and assessment within 45 days (e.g., if a child is ill) public agencies will:
 - a. Document those circumstances; and
 - b. Develop and implement an interim IFSP, to the extent appropriate and consistent with 303.345 (b) (1) and (b) (2).
- **NONDISCRIMINATORY PROCEDURES (303.323)**
 - 1. The Department of Health and Senior Services has developed contract language to ensure nondiscriminatory evaluation and assessment procedures.
 - 2. The procedures will provide that contracting agencies responsible for the evaluation and assessment of children and families under this part shall ensure, at a minimum that:
 - a. Tests and other evaluation materials and procedures are administered in the native language of the parents or other mode of communication, unless it is clearly not feasible to do so;
 - b. Any assessment and evaluation procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory;
 - c. No single procedure is used as the sole criterion for determining a child's eligibility under this part, and
 - d. Evaluations and assessments are conducted by qualified personnel.

F. INDIVIDUALIZED FAMILY SERVICE PLAN (303.340-303.346)

- **GENERAL (303.340)**
 - 1. An Individualized Family Service Plan (IFSP) is a written plan that is developed jointly by the family and appropriate qualified personnel providing early intervention services for each child determined to be eligible and his or her family.
 - 2. The IFSP is based on multidisciplinary evaluation and assessment of the child and family includes services necessary to enhance the development of the child and the capacity of the family to meet the needs of the child.
 - 3. All agencies contracted with the DHSS to provide early intervention services to children birth to age three are required to develop an IFSP for each eligible child. If a dispute

- between agencies exists regarding development/implementation responsibility for IFSPs, the DHSS will resolve the dispute or assign responsibility
4. Service Coordination services are available to each eligible child and family.
 5. Evaluation and assessment are conducted in accordance with 303.322 and the IFSP is developed in accordance with 303.342 and 303.343.
- **PROCEDURES FOR IFSP DEVELOPMENT, REVIEW, AND EVALUATION (303.342)**
 1. Meeting to develop Initial IFSP; Timelines
 - a. For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial IFSP shall be conducted within 45 calendar days from the referral.
 2. Periodic Review
 - a. A review of the IFSP for a child and the child's family must be conducted every six months or more frequently if conditions warrant, or if the family requests such a review. The purpose of this review is to determine:
 - i. The degree to which progress toward achieving the outcomes is being made; and
 - ii. Whether modification or revision of the outcomes or services is necessary.
 - b. The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants
 3. Annual Meeting to Evaluate the IFSP
 - a. A meeting shall be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family, and, as appropriate, to revise its provisions.
 - b. The results of any current evaluations conducted under 303.322 (c), and other information available from the ongoing assessment of the child and family must be used in determining what services are needed and will be provided.
 4. Accessibility and Convenience of Meetings:
 - a. IFSP meetings must be conducted:
 - i. In settings and at time that are convenient to families; and
 - ii. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.
 - b. Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.
 5. Parent Consent
 - a. The content of the IFSP shall be fully explained to the parents.
 - b. Informed written consent is to be obtained from parents prior to provision of early intervention services in the IFSP.
 - c. If parents do not provide consent for a particular early intervention services, or withdraw consent, that services may not be provided.
 - d. The early intervention services for which parental consent is obtained must be provided.

NOTE: See Prior Notice Requirement found in the Procedural Safeguards section of this document.
 - **PARTICIPANTS IN IFSP MEETINGS AND PERIODIC REVIEWS (303.343)**
 1. Initial and Annual IFSP Meetings
 - a. Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants:
 - i. The parent or parents of the child;
 - ii. Other family members, as requested by the parent, if feasible to do so.
 - iii. An advocate or person outside of the family, if the parent requests that the person participate.

- iv. The service coordinator who has been working with the family since the initial referral of the child for reevaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP.
 - v. A person or persons directly involved in conducting the evaluations and assessments in 303.322.
 - vi. As appropriate, persons who will be providing services to the child or family.
- b. If a person listed in paragraph (1), (a) (v) of this section is unable to attend a meeting, arrangements shall be made for the person's involvement through other means, including:
 - i. Participating in a telephone conference call;
 - ii. Having a knowledgeable authorized representative attend the meeting; or
 - iii. Making pertinent records available at the meeting.
- 2. Periodic Review
 - a. Each periodic review shall provide for the participation of persons in paragraph (1) (a) (i) through (1) (a) (iv) of the section.
 - b. If conditions warrant, provision shall be made for participation of other representatives identified in paragraph (1) of this section.
- **CONTENT OF IFSP (303.344)**
 - 1. Information about the Child's Status
 - a. The IFSP must include a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social/emotional development, and adaptive development.
 - b. The statement in paragraph (1) (a) of this section must be based on professionally objective criteria.
 - 2. Family Information
 - a. With the concurrence of the family, the IFSP shall include a statement of the family's resources, priorities and concerns related to enhancing the development of the child.
 - 3. Outcomes
 - a. The IFSP must include a statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timeliness used to determine:
 - i. The degree to which progress toward achieving the outcomes is being made; and
 - ii. Whether modifications or revisions of the outcomes or services are necessary.
 - 4. Early Intervention Services
 - a. The IFSP shall include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in paragraph (C) of this section, including:
 - i. The frequency, intensity, location, and method of delivering the services;
 - ii. The payment arrangements, if any; and
 - iii. A statement of the natural environments in which early intervention services shall appropriately be provided, including justification of the extent, if any, to which services will not be provided in the natural environment.
 - b. As used in paragraph (4) (a) (i) of this section:
 - i. Frequency and intensity mean the number of days or sessions that a service will be provided, the length of time the service is provided during each session, and whether the service is provided on an individual or group basis;
 - ii. Method means how a service is provided; and
 - iii. Location means actual place or places where a service is provided (home, center, hospital, child care, etc.).
 - 5. Other services
 - a. To the extent appropriate, the IFSP shall include:
 - i. Medical, and other services that the child needs, but that are not required under this part;

- ii. The funding sources to be used in paying for those services, or
 - iii. The steps that will be taken to secure those services through public and private sources.
- b. The requirement in paragraph (5) (a) of this section does not apply to routine medical services (e.g. immunizations and well-baby care), unless a child needs those services and the services are not otherwise available or being provided.
- 6. Dates; Duration of Services
 - a. The IFSP shall include a statement of projected dates for initiation of services in (4) (a) above as soon as possible after the IFSP meeting and the anticipated duration of these services.
- 7. Service Coordinator
 - a. The IFSP shall include the name of the Service Coordinator from the profession most immediately relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities, who will be responsible for implementation of the IFSP and coordination with other agencies and persons.
 - b. In meeting the requirements in paragraph (7) (a) of this section, the public agency may:
 - i. Assign the same Service Coordinator to be responsible for implementing a child's and family's IFSP who was appointed at the time that the child was initially referred for evaluation; or
 - ii. Appoint a new Service Coordinator.
 - c. As used in (7) (a) above, the term profession includes service coordination.
- 8. Transition at Age Three
 - a. The IFSP shall include the steps to be taken to support the transition of the child, upon reaching age three, to:
 - i. Preschool services under Part B of IDEA, consistent with 303.148 , to the extent that those services are appropriate; or
 - ii. Other services that may be available, if appropriate.
 - b. The steps required in paragraph (8) (a) of this section include:
 - i. Discussions with, and training of, parents regarding future placements and other matters related to the child's transition;
 - ii. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; and
 - iii. With parental consent, the transmission of information about the child to the local education agency, to ensure continuity of services, including evaluation and assessment information required in 303.322, and copies of IFSPs that have been developed and implemented.
- **PROVISION OF SERVICES BEFORE EVALUATION AND ASSESSMENT ARE COMPLETED (303.345)**
 - 1. Early Intervention Services for an eligible child and the child's family may commence before the completion of the evaluation and assessment in 303.322, if the following conditions are met:
 - a. Parental consent is obtained.
 - b. An interim IFSP is developed that includes:
 - i. The name of the service coordinator who will be responsible for the implementation of the interim IFSP and coordination with other agencies and persons; and
 - ii. The early intervention services that have been determined to be needed immediately by the child and the child's family.
 - c. The evaluation and assessment are completed within the 45 calendar day time period as required.

- **RESPONSIBILITY AND ACCOUNTABILITY (303.346)**

Each agency or person who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the Act does not require that any agency or person be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

G. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD) (303.360)

- New Jersey's CSPD System is designed as a statewide network of regional training and technical assistance coordinators who work at the regional/local provider level under the guidance of the REICs and state CSPD Coordinator. The goal of the CSPD System for early intervention is to enable infants and toddlers with special needs and their families to participate in high quality early intervention services by ensuring that services are provided by qualified, competent personnel in all disciplines listed in Part C of IDEA.
1. New Jersey's Part C Comprehensive System of Personnel Development (CSPD) must:
 - a. Be consistent with the CSPD required under Part B.
 - b. Provide for pre-service and in-service training to be conducted on an interdisciplinary basis to the extent appropriate;
 - c. Provide for the training of a variety of personnel needed to meet the requirements of this part, including:
 - i. Public and private providers
 - ii. Primary referral sources
 - iii. Paraprofessionals
 - iv. Personnel who serve as service coordinators; and
 - d. Ensure that training provided relates specifically to:
 - i. Understanding the basic components of early intervention services available in the state;
 - ii. Meeting interrelated social or emotional, health, developmental, and educational needs of eligible children; and
 - iii. Assisting families to enhance development of their child and to participate fully in the development and implementation of IFSPs.
 2. New Jersey's Part C Comprehensive System of Personnel Development (CSPD) may include:
 - a. Implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;
 - b. Promoting the preparation of early intervention providers, including paraprofessionals and assistants, who are fully and appropriately qualified to provide early intervention services;
 - c. Training personnel to work in rural and inner-city areas; and
 - d. Training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program to a preschool program under Part B of IDEA or to other preschool or other appropriate services.
 3. Needs Assessment
 - a. The needs assessment process includes both formal and informal techniques which are responsive to the geographic, personnel and organizational differences that may exist within the state.
 - b. Priority training topics are identified by analyzing data obtained from:
 - i. State CSPD needs assessments;
 - ii. The Statewide Parent Advocacy Network (SPAN) assessment of needs;
 - iii. Local agencies, interdisciplinary needs assessment;
 - iv. Regional Early Intervention Collaboratives needs assessments;

- v. Reports from time-limited work groups and task forces;
 - vi. Evaluations from statewide technical assistance/in-service meetings; and
 - vii. Monitoring reports and data collection.
- 4. Regional Early Intervention Collaboratives (REICs)
 - a. Through regional training and technical assistant coordinators, the REICs provide technical assistance and in-service training to local service coordinators, early intervention service providers and families.
 - b. Activities employed in this effort include site-specific monitoring/needs assessment, on site technical assistance and training, regional networking meetings and information dissemination products.
 - c. Training events are interdisciplinary, featuring information and skills relevant to early intervention providers across disciplines.
 - d. Parent participation, both as trainers and trainees, is strongly supported and encouraged.
- 5. Transition Training
 - a. The Department of Health and Senior Services, as DHSS for Part C and the Department of Education, Office of Special Education for Part B, work collaboratively with a Transition Task Force to provide training on the transition of children and families from Part C services to Part B services.
 - b. The task force includes representation from REICs, service coordinators, child study teams, EIP providers, state departments, SPAN (PTI), Head Start, LEAs, Regional Preschool Trainers, as well as other interested professionals in the field.
 - c. The Transition Task Force is responsible for the on-going development of transition materials.
 - d. REICs and SPAN provide statewide transition to preschool training to families.

H. PERSONNEL STANDARDS (303.361)

• DEFINITIONS

1. Appropriate professional requirements in the state means entry level requirements that:
 - a. Are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing early intervention services; and
 - b. Establish suitable qualifications for personnel providing early intervention services under this part to eligible children and their families who are served by state, local, and private agencies.
2. Highest requirements in the state applicable to a specific profession or discipline means the highest entry-level academic degree needed for any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.
3. Profession or discipline means a specific occupational category that:
 - a. Provides early intervention services to children eligible under this part and their families;
 - b. Has been established or designated by the state; and
 - c. Has a required scope of responsibility and degree of supervision.
4. State approved or recognized certification, licensing, registration, or other comparable requirements means the requirements that a state legislature either has enacted or has authorized a state agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the state.

• POLICIES AND PROCEDURES

1. The state early intervention system has policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

2. The policies and procedures required in (1) above provide for the establishment and maintenance of standards that are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which a person is providing early intervention services.
 3. To the extent that the state's standards for a profession or discipline, including standards for temporary or emergency certification, are not based on the highest requirements in the state that apply to the profession or discipline, the state's application for assistance under this part includes the steps the state is taking, the procedures for notifying public agencies and personnel of those steps, and the timelines it has established for the retraining or hiring of personnel that meet appropriate professional requirements in the state.
 4. In meeting the requirements in (1) and (2) of this section, a determination must be made about the status of personnel standards in the state.
 - a. That determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing early intervention services, whether the applicable standards are consistent with the highest requirements in the state for that profession or discipline.
 - b. The information required in this section is on file with the DHSS, and available to the public.
 5. In identifying the "highest requirements in the state" for purposes of this section, the requirements of all state statutes and the rules of all state agencies applicable to serving children eligible under this part and their families were considered.
 6. Nothing in this part, including this paragraph prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.
 7. In implementing this section, the state may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to eligible children, including, in a geographic area of the state where there is a shortage of personnel that meet the qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet standards described in (2) above of this section, consistent with state law, within three years.
 8. Each regional and local participating agency shall develop and implement written policies to require personnel providing early intervention services for eligible children and their families to meet appropriate professional requirements established by the Department of Health and Senior Services.
- **STATE PERSONNEL STANDARDS**
 1. **Audiologist:** Licensed Audiologist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Audiology and Speech-Language Pathology Advisory Committee, License Frequency: Biennial. This includes temporary licensure as described in number twenty (20) below.
 2. **Behavior Specialist:** Bachelor's degree in psychology from an accredited institution with coursework in behavioral methodology for children and at least one year experience working with young children (ages birth to eight years) implementing behavioral intervention programs.
 3. **Child Development Specialist:** (1) Bachelor's degree in early childhood education from an accredited institution with Teacher Certificate and 9 credit hours of coursework in special education; OR (2) Master's degree from an accredited institution in developmental or clinical psychology, including course work in infant and early childhood assessment and/or family training and counseling.
 4. **Family Therapist:** (1) Licensed Clinical Social Worker, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Social Work Examiners,

- License Frequency: Biennial; OR (2) Licensed Marriage and Family Therapist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Marriage and Family Therapy Examiners, License Frequency: Biennial
5. **Interpreter for the Deaf:** (1) Associate's degree from an accredited institution indicating completion of an accredited sign language interpreter training program; AND completion of screening established by the NJ Division of Deaf and Hard of Hearing, NJ Department of Human Services; OR (2) Certificate of Interpretation and Certificate of Transliteration, Registry of Interpreters for the Deaf.
 6. **Nurse:** Licensed Registered Nurse, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Nursing, License Frequency: Biennial.
 7. **Nutritionist:** (1) Registered Dietitian, Commission on Dietetic Registration; OR (2) Board Certified Specialist in Pediatric Nutrition, Commission on Dietetic Registration; OR (3) Certified Clinical Nutritionist, Clinical Nutrition Certification Board.
 8. **Occupational Therapist:** Licensed Occupational Therapist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Occupational Therapy Advisory Council, License Frequency: Biennial. This includes temporary licensure as described in number twenty (20) below.
 9. **Optometrist:** Licensed Optometrist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Optometrists, License Frequency: Biennial.
 10. **Orientation and Mobility Specialist:** Certified Orientation and Mobility Specialist (COMS), Academy for Certification of Vision Rehabilitation and Education Professionals, Certificate Frequency: every five (5) years.
 11. **Pediatricians/other Physicians:** Licensed Physician (MD or DO), State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, License Frequency: Biennial.
 12. **Physical Therapist:** Licensed Physical Therapist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Physical Therapy, License Frequency: Biennial. This includes temporary licensure as described in number twenty (20) below.
 13. **Psychologist:** Psychologist; State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs; Board of Psychological Examiners, License Frequency: Biennial. This includes temporary licensure as described in number twenty (20) below.
 14. **Service Coordinator:** Meets the standards for any professional level early intervention personnel position.
 15. **Social Worker:** Certified, Licensed, or Licensed Clinical Social Worker, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Social Work Examiners, License Frequency: Biennial.
 16. **Special Educator:** (1) Bachelor's degree with certification as Teacher of the Handicapped, New Jersey Department of Education, AND experience AND/OR education in early childhood development; OR (2) Master's degree with certification as Teacher of the Handicapped; OR (3) Master's degree in early childhood/special education, early intervention, or other specialty program whose focus is on young children (birth to eight years of age) with disabilities and their families.
 17. **Special Educator/Hearing Impaired:** NJ Department of Education Certificate as Teacher of the Hearing Impaired.
 18. **Special Educator/Visually Impaired:** NJ Department of Education Certificate as Teacher of the Visually Impaired.
 19. **Speech-Language Pathologist:** Licensed Speech-Language Pathologist, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Audiology and Speech-Language Pathology Advisory Committee, License Frequency: Biennial. This includes temporary licensure as described in number twenty (20) below.

20. Temporary Licensure

Waiver of these requirements shall not be granted by the Department of Health and Senior Services to any individual providing services to eligible infants, toddlers, and their families. However, because of the shortage of personnel who meet standards and the difficulties recruiting personnel, the DHSS will permit hiring of individuals who do not immediately meet the standards above but do qualify for temporary licensure to work under close supervision until they meet standards, temporary licensure is revoked or until others are recruited who meet the personnel standards of the State of New Jersey as follows:

- a. **Audiologist:** Temporary or provisional license with documented termination date from New Jersey Department of Law & Public Safety, Division of Consumer Affairs, Audiology and Speech-Language Pathology Advisory Committee, according to the most current statutes and regulations governing this license.
- b. **Occupational Therapist:** Temporary license with documented termination date from New Jersey Department of Law & Public Safety, Division of Consumer Affairs, Occupational Therapy Advisory Council, according to the most current statutes and regulations governing this license.
- c. **Physical Therapist:** Temporary license with documented termination date from New Jersey Department of Law & Public Safety, Division of Consumer Affairs, State Board of Physical Therapy, according to the most current statutes and regulations governing this license.
- d. **Psychologist:** Temporary license with documented termination date from New Jersey Department of Law & Public Safety, Division of Consumer Affairs, Board of Psychological Examiners, according to the most current statutes and regulations governing this license.
- e. **Speech Language Pathologist:** Temporary or provisional license with documented termination date from New Jersey Department of Law & Public Safety, Division of Consumer Affairs, Audiology and Speech-Language Pathology Advisory Committee, according to the most current statutes and regulations governing this license.

21. Paraprofessionals/Assistants

- a. The Department of Health and Senior Services has established policies and procedures that allow for the hiring of paraprofessionals and assistants who are appropriately trained and supervised in accordance with state law and policy, to assist in the provision of services.
 - i. **Child Development Associate:** High school diploma or GED and documented experience working with young children (ages birth to eight years) with disabilities
 - ii. **Certified Occupational Therapy Assistant (COTA):** Licensed Occupational Therapy Assistant, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Occupational Therapy Advisory Council, License Frequency: Biennial.
 - iii. **Physical Therapy Assistant:** Licensed Physical Therapy Assistant, State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Physical Therapy, License Frequency: Biennial.
 - iv. **Service Coordinator Associate:** High school diploma or GED. With DHSS approval, immediate (parent/sibling) family members of a child with special needs or a community member of an underserved population who do not meet the education requirement may be hired in accordance with a written plan for the education requirement to be met within a specified time period. Roles, responsibilities and level of supervision are commensurate with experience and at a minimum conducted in accordance with the state approved position description.

- b. **Supervision of paraprofessionals:** Under the close and regular supervision by professional personnel, paraprofessional staff members may perform the following functions:
 - i. Provide supplementary services addressing goals described in the child/family's IFSP;
 - ii. Assist in provision of group services to children and/or families;
 - iii. Provide liaison to organizations addressing issues of concern to the community; and
 - iv. Provide translating/interpreting services.

I. PROCEDURAL SAFEGUARDS

(303.400-303.425; 300.506-300.512; 303.460; 300.560-300.575)

- **GENERAL RESPONSIBILITY OF LEAD AGENCY (303.400)**

1. The lead agency, the Department of Health and Senior Services (DHSS), has
 - a. Adopted procedural safeguards that meet the requirements of this subpart;
 - b. Ensures effective implementation of safeguards by each public agency involved in the provision of early intervention services; and
 - c. Established a Procedural Safeguards Office that is housed with the DHSS and reports directly to the Assistant Commissioner of the Division of Family Health Services. The Procedural Safeguards Office is accessible through a toll free number, 1-877-258-6585.
2. The procedures utilized by DHSS to inform each public agency of its responsibilities for insuring effective implementation of procedural safeguards by each public agency are as follows:
 - a. The state application under Part C is disseminated to agencies which receive funds from the DHSS to provide early intervention services;
 - b. Copies of the final regulations under Part C of IDEA are provided to all applicable public agencies;
 - c. Each REIC is available to provide technical assistance to providers with respect to the state early intervention system; and
 - d. Workshops and training meetings sponsored by DHSS and REICs are conducted for the purpose of providing technical assistance to public agencies with respect to the requirements of Part C of IDEA.
 - e. The Department of Health and Senior Services grants/contracts include requirements that specify agreement to comply with the Early Intervention Procedural Safeguards System.
3. The DHSS is responsible for recruiting and training mediators and impartial hearing officer panels, bearing the cost of mediation and due process hearings, scheduling due process hearings and mediations, and reviewing and monitoring the statewide implementation of procedural safeguards, including the responsibility to effectively evaluate and monitor family satisfaction with the information they have received regarding procedural safeguards and the experiences they have with the procedural safeguards system.

- **ROLE OF REGIONAL EARLY INTERVENTION COLLABORATIVES (REICS)**

1. The REICs are responsible for ensuring the effective implementation of procedural safeguards at the local level;
2. Each REIC will utilize a consistent quality assurance/evaluation mechanism to review and monitor the local implementation of procedural safeguards, and
3. REICS will assist the DHSS in effectively evaluating and monitoring family satisfaction with the procedural safeguards information received and their experiences with the procedural safeguards system.

- **PARENT LIAISON**

1. Beyond enhancing notice requirements, explanatory materials, and family training through the Procedural Safeguards Office, the DHSS will establish parent liaison within each region of the state to provide formal support of the procedural safeguards system. A parent liaison will be available to advise parents of their procedural rights and help them through the entire complaint process.

- **DEFINITIONS (303.401)**

1. Consent means:
 - a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;
 - b. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom;
 - c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
 - d. The parent has the right to determine whether they, their infant/toddler or other family members will accept or decline any early intervention service under this part in accordance with state law, and may decline such a service after first accepting it, without jeopardizing other early intervention services under this part.
2. "Native Language" when used with reference to persons with limited English proficiency, means the language or mode of communication normally used by the parent of an eligible child.
3. "Personally identifiable" means that information includes:
 - a. The name of the child, the child's parent, or other family member;
 - b. The address of the child;
 - c. A personal identifier, such as the child's or parent's social security number; or
 - d. A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

- **OPPORTUNITY TO EXAMINE RECORDS (303.402)**

1. In accordance with the confidentiality procedures in the regulations under Part B of the Act, the parents of eligible children are afforded the opportunity to inspect and review records relating to evaluations and assessments, eligibility determination, development and implementation of IFSPs, individual complaints dealing with the child, and any other area under Part C involving records about the child and the child's family.

- **PRIOR NOTICE; NATIVE LANGUAGE (303.403)**

1. To ensure parental attendance and participation throughout the early intervention process, written prior notice shall be provided to the parents of a child eligible under this part within a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.
2. The notice must be in sufficient detail to inform the parents about:
 - a. Action being proposed or refused;
 - b. Reasons for taking the action;
 - c. All procedural safeguards that are available; and
 - d. The state complaint procedures under section 303.510-303.512 including a description of how to file a complaint and the timelines under those procedures.
3. The notice must be:
 - a. Written in language understandable to the general public; and
 - b. Provided in the native language of the parents, unless it is clearly not feasible to do so. If the parent's native language or other mode of communication is not written, the public agency or designated service provider shall take steps to ensure that:

- i. The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
 - ii. The parent understands the notice; and
 - iii. There is written evidence that these requirements have been met.
- 4. If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).
- **PARENT CONSENT (303.404)**
 - 1. Recognizing that it is important to begin collaboration between parents and service providers from the point of first contact, parents will be actively involved in the evaluation, assessment, and identification of services for their children.
 - 2. The service coordinator assigned to a family will provide information regarding evaluation and assessment processes and service options so that parents will have a clear understanding about the purpose of their consent.
 - 3. Written parental consent must be obtained before:
 - a. Conducting initial evaluation and assessment and
 - b. Initiating the provision of early intervention services.
 - 4. If parental consent is not given, the public agency shall make reasonable efforts to ensure that the parent:
 - a. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
 - b. Understands that the child will not be able to receive the evaluation and assessment or the services unless consent is given.
 - 5. Parental refusal to consent to participation in early intervention services will be respected and abided by except in circumstances which are suspected to constitute abuse or neglect of the child in accordance with state child protection laws and policies. In the event that the service coordinator reasonably believes that the parent's refusal to consent to an evaluation or assessment procedure or to the provision of a particular service is child neglect they will notify such suspicion under existing state laws (i.e., the Division of Youth and Family Services will be notified).
- **PARENT RIGHT TO DECLINE SERVICE (303.405)**
 - 1. Parents of an eligible child may determine whether they, their child, or other family members will accept or decline any early intervention service identified in the evaluation and assessment process under this part in accordance with state law. Parents may decline any or all services after first accepting them without jeopardizing other early intervention services.
- **SURROGATE PARENTS (303.406)**
 - 1. The Department of Health and Senior Services ensures that the rights of eligible children under Part C are protected if:
 - a. No parent (as defined in 303.19) can be identified;
 - b. The service coordinator, after reasonable efforts, cannot discover the whereabouts of the parent; or
 - c. The child is a ward of the state under the laws of New Jersey.
 - 2. The DHSS has designated the service coordinator responsible to determine which children are eligible for the appointment of a surrogate parent.
 - a. Records about the child that are kept by other agencies can serve as documentation of the child's status in relation to his/her eligibility for a surrogate parent.
 - b. The service coordinator is required to present written documentation that a parent cannot be identified or located and that there are no persons who are legally responsible for the child's welfare or that the child is a ward of the state. A parent includes persons acting in the place of a parent, such as a grandparent or stepparent with whom the child lives.

- c. If the rights of the parent have been terminated, the service coordinator must consult with the child's case manager at DYFS to determine whether the foster parent meets the criteria established under 303.19 (the definition of parent) and can act on behalf of the child. If the foster parent meets the definition of parent in accordance with the criteria in 303.19, the service coordinator proceeds to work with the foster parent as the parent of the child.
 - d. Once the need for a surrogate parent has been established, it is the responsibility of the service coordinator to identify and appoint an appropriate surrogate parent immediately. The service coordinator shall follow procedures established by the DHSS for appointing a surrogate parent. These procedures include:
 - i. How the agency makes the final determination that the child is in need of a surrogate parent;
 - ii. A system for identifying and appointing surrogate parents; and
 - iii. A system for documenting assignments and/or appointments of persons to serve as surrogate parents.
- 3. Criteria for Selecting Surrogates
 - a. The state Procedural Safeguards Office may select a surrogate parent in any way permitted under state law. The Procedural Safeguards Office will ensure that distribution and training on the policy for surrogate parents is provided statewide. The policy ensures that the assignment of a surrogate parent will be based upon the following criteria:
 - i. The surrogate parent shall have no interest that conflicts with the interest of the child represented; and
 - ii. The surrogate parent shall have the knowledge and skills that ensure adequate representation of the child.
- 4. Non-employee requirement; Compensation
 - a. The person assigned as a surrogate parent shall not be-
 - i. An employee of any state agency, or
 - ii. A person, or an employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler.
 - b. A person who otherwise qualifies to be a surrogate parent shall not be considered an employee of the public or private agency solely because he/she is paid to serve as a surrogate parent.
- 5. Responsibilities
 - a. The surrogate parent may represent a child in all matters related to-
 - i. The evaluation and assessment of the child;
 - ii. Development and implementation of the child's IFSPs, including annual evaluations and periodic review;
 - iii. The ongoing provision of early intervention services to the child, and
 - iv. Any other rights established under Part C.
- **MEDIATION (303.419)**

Mediation is an option that can be employed when the parent and public agency cannot, through the IFSP process or other discussions, agree on matters related to identification, evaluation, placement or service provision. The purpose of mediation is to find a solution satisfactory to all involved in a dispute.

- 1. The Department of Health and Senior Services ensures that procedures are established and implemented to allow parties to resolve disputes through a mediation process which, at a minimum, is available whenever a due process hearing is requested. The Department of Health and Senior Services has established a mediation system that is coordinated through a State Procedural Safeguards Office.
- 2. Mediation procedures meet the following requirements:
 - a. The procedures ensure that the mediation process--

- i. Is voluntary on the part of the parties;
 - ii. Is not used to deny or delay a parent's right to a due process hearing under Sec. 303.420, or to deny any other rights afforded under Part C of the Act; and
 - iii. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
 - b. The Procedural Safeguards Office shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
 - c. The Department of Health and Senior Services shall bear the cost of the mediation process, including the costs of meetings described below in this section.
 - d. Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
 - e. An agreement reached by the parties to the dispute in the mediation process must be set forth in a written mediation agreement.
 - f. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.
 - 3. Meeting to encourage mediation.
 - a. The state may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party –
 - i. Who is under contract with a parent training and information center or community parent resource center in the state established under sections 682 or 683 of the Act, or an appropriate alternative dispute resolution entity; and
 - ii. Who would explain the benefits of the mediation process and encourage the parents to use the process.
- **DUE PROCESS PROCEDURES(303.420)**
 - 1. The Department of Health and Senior Services has written procedures for mediation as described above in accordance with 303.419 and for the timely administrative resolution of individual child complaints brought by families concerning any of the matters in 303.403(a). The state meets this requirement by developing and implementing procedures that meet the requirements in 303.419 and 303.421 through 303.425 and providing parents with a means of filing a complaint.
 - 2. Families have several options available for resolution of disagreements regarding the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family. These options include formal and informal mediation, administrative hearing, and civil litigation.
 - 3. Policies governing procedures for resolving parents' individual complaints are designed to ensure that parents have ready access to an administrative process with the authority to promptly resolve such individual complaints.
 - 4. Parents may choose mediation of their complaints in addition to or instead of using the impartial hearing process.
 - 5. Parents and early intervention providers may utilize the complaint investigation and resolution process (303.510 -512) to address systemic or other concerns regarding compliance with Part C, its implementing regulations, and state early intervention law and system criteria and guidelines.
 - **APPOINTMENT OF AN IMPARTIAL PERSON (303.421)**
 - 1. The state has established an impartial hearing system that uses an Impartial Hearing Panel.
 - 2. The impartial hearing is the formal process for resolving individual child complaints. Procedures under this process require the appointment of an impartial panel. The impartial

panel must have knowledge about the provisions of Part C and needs of, and services available for, eligible children and families. The members of the impartial panel shall:

- a. Have knowledge about the provision of Part C and the needs of and services available for, eligible children and their families.
 - b. Not be employees of any agency involved in the provision of early intervention services or care of the child;
 - c. Not have personal or professional conflict of interest interfering with objectivity; and,
 - d. If otherwise qualified to conduct a hearing, not be considered an employee of the public agency solely because they are paid by the public agency to serve as a panel members.
3. The impartial hearing process shall be as follows:
- a. All requests shall be made to the state Procedural Safeguards Office at the New Jersey Department of Health and Senior Services.
 - b. Upon receipt of an individual complaint requesting an impartial hearing, the state Procedural Safeguards Office will convene an impartial hearing panel.
 - c. The state Procedural Safeguards Office shall provide notice to the parties of the time and place of the hearing, the names of the impartial hearing team members, and the impartial hearing procedures.
 - d. The impartial hearing panel will be responsible for listening to the presentation of information, testimony and viewpoints about the individual complaint, examining information and evidence relevant to the issues presented orally and in writing during the hearing, providing an electronic verbatim or written transcript of the proceedings, and providing a written decision within 30 days of the request for the hearing.
 - e. The written decision shall contain a statement of findings of facts and conclusions and the reasons for the final decision.

● **PARENTS RIGHTS IN THE IMPARTIAL HEARING SYSTEM (303.422)**

1. The Department of Health and Senior Services ensures that parents of children eligible under this part are afforded the rights as described in this section in any administrative proceedings carried out under 303.420.
2. Any parent involved in a due process hearing has the right to:
 - a. Be accompanied and advised by counsel and by individuals with special knowledge or training in early intervention services;
 - b. Present evidence and confront, cross examine and compel attendance of witnesses;
 - c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that parent at least five days before the hearing;
 - d. Obtain a written or electronic verbatim transcription of the proceeding;
 - e. Obtain written findings of fact and decisions; and
 - f. At any time throughout the mediation process, the parent may elect to end the mediation and request resolution through an impartial hearing. At any time throughout the impartial hearing process, the parent may elect to initiate mediation proceedings.

● **CONVENIENCE OF PROCEEDINGS; TIMELINES (303.423)**

1. Any proceedings for implementing the impartial hearing process in this subpart shall be carried out at a time and place that is reasonably convenient to the parents; and
2. The Department of Health and Senior Services shall insure that not later than thirty (30) days after the receipt of a request for an impartial hearing a final decision is reached in the hearing and a copy of the written decision is mailed to each of the parties.

● **CIVIL ACTION (303.424)**

1. Any party may appeal the findings and decision of the impartial hearing process to the Superior Court of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey, or to a district court of the United States, pursuant to 20 USCA 1415 (e) (3).

2. The right to file an appeal follows after the parties have exhausted administrative remedies, except as otherwise provided under state and federal statute. Each party shall bear their own costs in filing a civil action.
- **STATUS OF CHILD DURING PROCEEDINGS (303.425)**
 1. During the pendency of proceedings involving impartial hearings, the child involved must continue to receive the appropriate early intervention services currently being provided, unless the parent and the public agency agree otherwise.
 2. If the dispute involves application for initial services under this part, the child must receive those services that are not in dispute.
 - **CONFIDENTIALITY OF INFORMATION (303.460)**
 1. New Jersey has policies and procedures for ensuring the confidentiality of any personally identifiable information collected, used or maintained, including the right of parents to written notice of and written consent of the exchange information among agencies consistent with federal and state law and will meet the requirements of Part B of IDEA (300.560 - 300.576) with the following modifications:
 - a. Reference to "pupil" means a child eligible for services under Part C.
 - b. Reference to "State Education Agency" (SEA) means DHSS.
 - c. Reference to "special education, related services, free appropriate public education, free public education or education" means early intervention services to eligible children/families.
 - d. Reference to "Participating Agency" when used in reference to a local education agency (LEAs), or an "intermediate education unit" means a local provider.
 - e. Reference to 300.128 (Identification, Location, and Evaluation of Children with Disabilities) means 303.164 & 321 (Comprehensive Child Find System).
 - f. Reference to 300.129 (Confidentiality of Personally Identifiable Information) means 303.460 (Confidentiality of Information).
 2. Policies and procedures to insure confidentiality of information must meet the following requirements:
 - a. Definitions (300.560)
 - i. "Destruction" means physical destruction or removal of personal identifiers from information so that information is no longer personally identifiable.
 - ii. "Educational records" means the type of records covered under the definition of education records in Part 99 of 34 CFR, the regulations implementing the Family Educational Rights and Privacy Act of 1974 (FERPA).
 - iii. "Participating agency" means any agency/institution which collects, maintains, or uses personally identifiable information or from which information is obtained under Part C.
 - b. Notice to Parents (300.561)
 - i. As required in 300.561 the DHSS shall give notice which is adequate to fully inform parents including:
 - (a) A description of the extent the notice is given in the native languages of the various population groups in the state;
 - (b) A description of the children on whom personally identifiable information is maintained, types of information maintained, types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
 - (c) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information; and

- (d) A description of all the rights of parents and children regarding this information, including the rights under the Family Education Rights and Privacy Act of 1974 (FERPA) and implementing regulations in Part 99 of 34 CFR.
 - ii. Before any major identification, location, or evaluation activity, the notice will be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.
 - iii. These requirements are specified in the interagency agreement with the Department of Education to support Child Find activities for infants and toddlers.
- c. Access Rights (303.562)
 - i. Each participating agency shall permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under Part C. The agency shall comply with the request without unnecessary delay, comply with a request prior to holding the IFSP meeting or hearing related to the child's identification, evaluation, or placement, or provision of early intervention services of the child, and, in no case, more than 45 days after the request has been made.
 - ii. The right to inspect and review records includes:
 - (a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
 - (b) The right to request that the agency provide copies of records containing information, if failure to provide those copies would effectively prevent the parent from exercising their right to inspect/review records; and
 - (c) The right to have a representative of the parent inspect and review records
 - iii. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.
- d. Record of Access (300.563)
 - i. Each participating agency shall keep a record of parties obtaining access to early intervention records collected, maintained or used under Part C (except access by parents and authorized employees of the participating agency), including the name of the party, the date of access, and the purpose for which the party is authorized to use the record.
- e. Records on More Than One Child (300.564)
 - i. If any early intervention record includes information on more than one child, parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- f. List of Types and Locations of Information (300.565)
 - i. Each participating agency shall provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.
- g. Fees (300.566)
 - i. A participating agency may charge fees for copies of records if the fee does not prevent the parents from exercising their right to inspect and review those records.
 - ii. A participating agency may not charge a fee to search for or to retrieve information under Part C.
- h. Amendment of Records at Parent's Request (300.567)
 - i. A parent who believes information in early intervention records collected, maintained or used under Part C is inaccurate or misleading or violates privacy or other rights of the child, may request the participating agency that maintains the information to amend the information.

- ii. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
 - iii. If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of refusal and advise the parent of the right to a hearing under 300.568.
- i. Opportunity for a Hearing (300.568)
 - i. The DHSS shall, on request, provide opportunity for a hearing to challenge information in the early intervention record to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.
- j. Result of Hearing (300.569)
 - i. If a hearing determines information is inaccurate, misleading, or violates privacy or other rights of the child, the DHSS or participating provider agency shall amend the information and inform the parents in writing.
 - ii. If the hearing determines information is not inaccurate, misleading, or violates privacy or other rights of the child, the DHSS or participating provider agency shall inform the parent of their right to place a statement in the record commenting on information or setting forth any reasons for disagreeing with the decision of the agency.
 - iii. Any explanation placed in the early intervention record must:
 - (a) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and
 - (b) Be disclosed, if the record or contested part of the record is disclosed to any party.
- k. Hearing Procedures (300.570)
 - i. A hearing held under 300.568 must be conducted under procedures in 99.22 of the Family Education Rights and Privacy Act (FERPA) (34 CFR Part 99).
- l. Consent (300.571)
 - i. Parental consent must be obtained before personally identifiable information is disclosed to anyone other than the officials of the participating agency collecting or using information under this section, subject to ii below, or used for any purpose other than meeting the requirements under Part C.
 - ii. An agency shall not release information from the record to participating agencies without parental consent unless authorized to do so under FERPA, 99.31.
 - iii. Should there be disagreement between the service provider and the parent regarding release of personally identifiable information, a hearing under Part 99.22 would have to be conducted.
- m. Safeguards (300.572)
 - i. Each participating agency shall protect confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
 - ii. One official at each of the participating agencies shall assume responsibility for insuring confidentiality of personally identifiable information.
 - iii. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures, 300.129 of Part B and 34 CFR 99.
 - iv. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within an agency who may have access to personally identifiable information.
- n. Destruction of Information (300.573)
 - i. The public agency shall inform parents when personally identifiable information collected, maintained or used under Part C is no longer needed to provide early intervention services to the child.

- ii. The information must be destroyed at the request of the parents. However, a permanent record of the child's name, address, phone number, attendance and year completed may be maintained without time limitations.
- o. Enforcement (300.575)
 - i. The Department of Health and Senior Services shall collect and maintain information through its supervision and monitoring process, to insure all requirements governing the confidentiality of records, and information maintained under this part, are being implemented by participating agencies.
 - ii. Each participating agency provides the Department of Health and Senior Services with assurances that they will comply with the Grant Program Specifications for grants/contracts, Subgrants, and consultant contracts. Each agency must have policies and procedures which include the compilation, maintenance, access to and confidentiality of records.
 - iii. In the event compliant deficiencies are identified, the DHSS or REIC will report the deficiency, in writing, to the responsible agency. This report will describe the unmet requirement leading to the deficiency, specify the action necessary to correct the deficiency, and establish a timeline for implementing the corrective action. If corrective action is not taken, and if further assistance from appropriate enforcement personnel is unsuccessful in remedying the deficiency, the Department of Health and Senior Services or REIC may terminate or not renew the grant/contract, subgrant or consultant contract, depending on the seriousness of the findings.
- p. Department Use of Personally Identifiable Information
 - i. If the Department of Health and Senior Services or its authorized representatives collect any personally identifiable information regarding disabled children which is not subject to 5 USC 552a (The Privacy Act of 1974), the Commissioner shall apply the requirements of the Statute (5 USC 552a) and the regulations implementing those provisions.

J. SUPERVISION AND MONITORING OF PROGRAMS (303.501)

- The Department of Health and Senior Services, as the DHSS, is responsible for the general administration, supervision, and monitoring of programs and activities receiving assistance under Part C and monitoring of programs and activities used by the state to carry out this part, whether or not the program/activities are receiving assistance under Part C, to ensure compliance with Part C.
 - 1. The Department of Health and Senior Services has adopted and is using proper methods of administering each program, including:
 - a. Monitoring of agencies, institutions, and organizations used by the state to implement Part C;
 - b. Enforcing obligations imposed on agencies under Part C and Part C regulations;
 - c. Providing technical assistance as necessary to those agencies, institutions, and organizations; and
 - d. Correcting deficiencies identified through monitoring.
 - 2. The Department of Health and Senior Services in conjunction with and REICs monitor the programmatic aspects of agencies and organizations receiving Part C assistance, including Early Intervention Program Providers, Special Child Health Services Case Management Units (Part C service coordination), and contracted vendors.
 - a. The process and procedures for programmatic monitoring are included in the Administration of Health Service Grants Manual, New Jersey Department of Health and Senior Services, Part II - Health Service Grants/contracts Monitoring Manual and Interdepartmental Monitoring Forms.

- b. The process is conducted in accordance with: Compliance with the terms and conditions of Health Service Grants identified in Attachment C of each grant including programmatic criteria; federal /state rules and regulations; agency annual performance report; complaints and letters from families; local interagency agreements; data reports; program evaluation procedures including family satisfaction surveys; and on site review.
3. The Department of Health and Senior Services with the assistance of the REICs will collect and maintain information through its supervision and monitoring process, to insure all requirements under this part, are being implemented by participating agencies.

K. LEAD AGENCY PROCEDURES FOR RESOLVING COMPLAINTS (303.510-512)

• ADOPTING COMPLAINT PROCEDURES (303.510)

The Department of Health and Senior Services, as DHSS, has adopted procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another state, that any public agency in the state that receives Part C funds, other public agencies involved in the states early intervention system and other private service providers receiving Part C funds is in violation of federal regulations or state criteria and guidelines which apply to IDEA, Part C by providing for the filing of complaints by parents, other individuals, and organizations with the DHSS.
2. Widely disseminating to parents, other interested individuals and other appropriate entities about the complaint procedures including their rights under Part C to file a complaint and have that complaint addressed. Complaint information and procedures is shared with interested parties including the Developmental Disabilities Council, NJ Protection & Advocacy, Inc, SPAN (PTI), independent living centers, provider advocacy organizations, and service provider agencies (ARC, CP) and given to the family at the time of referral, evaluation and assessment, the initial IFSP meeting, and at every IFSP review.
3. In resolving a complaint in which it finds a failure to provide appropriate services, the DHSS, pursuant to its general supervisory authority under Part C of IDEA, must address:
 - a. How to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family; and
 - b. Appropriate future provision of services for all infants and toddlers with disabilities and their families.

• AN ORGANIZATION OR INDIVIDUAL MAY FILE A COMPLAINT (303.511)

1. Any parent or the parent's representative, other individual, or organization, including an organization or individual from another state, may file a complaint. A written, signed complaint must be filed with the Procedural Safeguards Office and must include:
 - a. A statement that an individual, program, agency or the state has violated a requirement of federal or state early intervention law or criteria and guidelines; and
 - b. The facts on which the complaint is based.
2. No verbal complaints shall be accepted from an organization or individual other than a parent. If a parent wishes to file a complaint, it is the responsibility of the service coordinator and/or REIC to assist the parent, in the parent's primary language and/or mode of communication to the maximum extent possible, to prepare the complaint in written form.
3. The alleged violation must have occurred not more than one year before the date that the complaint is received by the public agency unless a longer period is reasonable because:
 - a. The alleged violation continues for that child or other children; or
 - b. The complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by the public agency.

- **MINIMUM STATE COMPLAINT PROCEDURES (303.512)**

The Department of Health and Senior Services, as DHSS shall include the following in its complaint procedures:

1. A time limit of sixty (60) calendar days after a complaint is filed with the DHSS/Procedural Safeguards Office, under 303.510(a) to-
 - a. Carry out an independent on-site investigation, if the DHSS determines that such an investigation necessary;
 - b. Give the complainant the opportunity to submit additional information either orally or in writing about allegations in the complaint;
 - c. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part C of the Act or the regulations;
 - d. Issue a written decision by the Commissioner of Health and Senior Services to the complainant that addresses each allegation in the complaint and contains-
 - i. Findings of facts and conclusions; and
 - ii. The reasons for the DHSS's final decision.
 - e. To ensure that the DHSS is effectively addressing complaints, all complaint investigations, including the complaint, findings and corrective actions if any, will be provided, under applicable confidentiality, with the state protection and advocacy system and publicly reported to the SICC.
 - f. The Department of Health and Senior Services Procedural Safeguards Office may allow an extension of the time limit for the resolution of a particular complaint only if exceptional circumstances exist with respect to that complaint (e.g., illness or unavailability of the parties).
 - g. A plan of action outlining procedures for effective implementation of the final decision will be developed. Procedures may include technical assistance activities, negotiations, and corrective actions to achieve compliance.
2. If a written complaint is received that is also the subject of a due process hearing under 303.420, or contains multiple issues, of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the 60-calendar-day timeline using the complaint procedures described above.
3. If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties:
 - a. the hearing decision is binding; and
 - b. the DHSS must inform the complainant to that effect.
4. A complaint alleging a public agency's or private service provider's failure to implement a due process decision must be resolved by the DHSS.

L. POLICIES AND PROCEDURES RELATED TO FINANCIAL MATTERS (303.520-303.528)

- **POLICIES RELATED TO PAYMENT FOR SERVICES AND FEES (303.520-303.521)**

1. New Jersey P.L. 1993, Chapter 309 identifies the Department of Health and Senior Services as the lead agency responsible for establishing state policies related to the payment process for services to eligible children and their families under Part C including the identification and coordination of all available resources for early intervention services within the state including those from federal, state, local, and private sources. The policies meet the requirements of this section and are reflected in interagency agreements.
2. Specific Funding Policies. The state policies assure that -

- a. The following functions will be carried out at public expense and without fees being charged to parents:
 - i. Implementing the child find requirements;
 - ii. Evaluation and assessment, including the functions related to evaluation and assessment;
 - iii. Service coordination; and
 - iv. Administrative and coordination activities related to:
 - (a) The development, review and evaluation of an IFSP in 303.340 - .346; and
 - (b) The implementation of procedural safeguards and all other components of the early intervention system.
 - b. Every Part C eligible child will have access to developmental services, based on identified IFSP needs.
 - i. Developmental services are defined as special instruction, occupational therapy, physical therapy, and speech and language pathology.
 - ii. Fees may be charged for services identified as needed on the IFSP including developmental; social work; family training, counseling, & home visits; assistive technology services/devices; audiology; vision; nutrition; health; psychological; transportation/related cost and nursing.
 - iii. A family's ability to pay will be determined using state financial family cost participation policy and procedures for early intervention services. (Included as an Attachment)
 - (a) During the intake process the service coordinator informs the family about the New Jersey Early Intervention System Family Cost Participation Policy and Procedures.
 - (b) Once eligibility for the child has been established, the service coordinator will review the family cost participation policy and procedures and, with family consent, assist the family in collecting information needed to complete the NJEIS Family Cost Participation form and, as appropriate, an application for income adjustment
 - (c) Families must be informed of their rights to mediation, and/or due process hearing or an administrative complaint if they are in disagreement with their family cost share.
 - c. Fees will not be charged for services that a child is otherwise required to receive at no cost to parents; and
 - d. The inability of the parents of an eligible child to pay for services will not result in the denial of services to the child or the child's family.
3. The DHSS has established procedures to ensure the timely provision of services and that no services a child is entitled to receive are delayed or denied because of disputes between agencies regarding financial or other responsibilities:
 - a. In the event of dispute among agencies or service providers, services are to be provided to eligible children and families in a timely manner as follows:
 - i. The service coordinator for the family shall contact the REIC who will assign the financial responsibility for functions or services to be provided during the pendency of the dispute;
 - ii. Upon resolution of an interagency dispute, the DHSS shall notify the agency determined to have financial responsibility for the early intervention functions or services provided during the pendency of the dispute. The written notification shall include:
 - (a) The name of the eligible child for whom functions or services have been provided;
 - (b) The type of each early intervention function or service provided;
 - (c) The date(s) on which each function or service was provided;

- (d) The frequency and intensity of the early intervention service provided, the cost of the service, and the total amount of reimbursement required for each service; and
 - (e) The name of the agency which shall be reimbursed for each function or service.
 - b. Upon receipt of written notification, the agency determined to have financial responsibility shall have a time limit of 60 days to provide reimbursement to the agency assigned financial responsibility for functions or services provided during the pendency of the dispute.
- **IDENTIFICATION AND COORDINATION OF RESOURCES (303.522)**
 - 1. The DHSS is responsible for:
 - a. The identification and coordination of all available resources for early intervention services within the state, including those from federal, state, local, and private sources; and
 - b. Updating the information on the funding sources listed below, if a legislative or policy change is made under any of those sources.
 - 2. Federal funding sources include:
 - a. Title V of the Social Security Act (relating to Maternal & Child Health);
 - b. Title XIX of the Social Security Act (relating to the general Medicaid Program and EPSDT);
 - c. The Head Start Act;
 - d. Parts B and C of IDEA;
 - e. The Developmentally Disabled Assistance & Bill of Rights Act (PL 94-103); and
 - f. Other Federal Programs.
- **INTERAGENCY AGREEMENTS (303.523)**
 - 1. The Department of Health and Senior Services has signed Interagency Agreements and/or Memorandums of Agreements with the Department of Education, Department of Human Services, Division of Medicaid, and the Developmental Disabilities Council.
 - 2. These agreements include components necessary to ensure effective cooperation and coordination among all of the agencies involved, address financial responsibility of the public agencies for paying for early intervention services and procedures for timely resolution of intra- and interagency disputes about payment or other aspects of early intervention services and the dispute resolution of disputes between or among the signatory agencies.
 - 3. An interagency workgroup developed a comprehensive agreement which will remain binding until amended or supplanted by another Agreement. The workgroup representatives include: Department of Health and Senior Services; Department of Education; Department of Human Services; Head Start; Developmental Disabilities Council; and State Interagency Coordinating Council.
 - 4. Specific details as required in federal regulations were addressed including procedures for resolving disputes, establishment of financial responsibilities of agencies paying for early intervention services, and other necessary components to ensure effective cooperation and coordination among all agencies involved in planning and implementing services to young children.
- **RESOLUTION OF DISPUTES (303.524)**
 - 1. The Department of Health and Senior Services is responsible for resolving disputes according to procedures in 34 CFR 303.523 (c)(2)(ii).
 - 2. DHSS permits each state agency to resolve its own internal disputes.
 - 3. The following procedures are used to ensure that services are provided in a timely manner pending resolution:

- a. Discussion between the concerned parties at the local level and if unable to be resolved there;
 - b. Transmission of a letter outlining the problem and circumstances to the state agency representatives (Assistant Commissioner or Director, as appropriate) involved in the dispute. If the dispute is not resolved within 20 working days, the dispute shall be forwarded to the Commissioners; then
 - c. In the unlikely event that resolution cannot be reached by the Commissioners or their designees within an additional 20 working days, the matter will be forwarded to the Governor for resolution.
 - d. During pendency of the dispute, the Department of Health and Senior Services shall arrange for payment of services in accordance with "payor of last resort" provisions in 34 CFR 303.527, Part C federal regulations, to assure that services continue to the child and family during the period that it takes for the dispute to be resolved.
 - e. If, in resolving the dispute, it is determined that the assignment of financial responsibility was inappropriately made, the financial responsibility will be reassigned to the appropriate agency and arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility shall be made.
- **DELIVERY OF SERVICES IN A TIMELY MANNER (303.525)**
 - 1. The Department of Health and Senior Services ensures that services are provided to eligible children and their families in a timely manner, pending resolution of disputes among public agencies or service providers.
- **POLICY FOR CONTRACTING OR OTHERWISE ARRANGING FOR SERVICE (303.526)**
 - 1. The Department of Health and Senior Services, as DHSS, has the authority to contract or otherwise arrange with public or private service providers for the provision of early intervention services.
 - 2. It is the policy of the Department of Health and Senior Services that when contracting or otherwise arranging for services with public or private providers for eligible children and their families to:
 - a. Require that all services meet state standards and be consistent with the provisions of Part C of IDEA;
 - b. Be consistent with state Department of Health and Senior Services procedures for arranging for these services specified in the Terms and Conditions for Administration of Health Service Grants.
 - c. Part C rules and regulations are included in all Health Service Grants/contracts issued to support early intervention services. The programmatic terms of the grant/contract are included in Attachment C which is part of every grant/contract;
 - d. Meet minimum individual or organizational requirements pertaining to licensure, certification, and/or program accreditation/approval as determined by state law and Administrative Rules of New Jersey; and
 - e. The mechanisms that the DHSS uses in arranging for services include:
 - i. Receiving requests for contracted services submitted by Regional Early Intervention Collaboratives;
 - ii. Reviewing specific services to be provided through DHSS contracting;
 - iii. Arranging for services within the state EIP provider network; and
 - iv. Contracting service providers and arranging for the services to be provided.
- **PAYOR OF LAST RESORT (303.527)**
 - 1. Non-substitution of Funds-Funds provided under Part C may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of Part C, except whenever considered necessary to prevent delay in

the receipt of appropriate early intervention services for an infant, toddler, or family in a timely fashion, funds provided under Part C may be used to pay the provider of services pending the reimbursement from the agency that has ultimate responsibility for payment.

- a. Payments included in the above paragraph may be made for:
 - i. Early intervention services, as described in 303.12;
 - ii. Eligible health services, as described in 303.13; and
 - iii. Other functions and services authorized under this part, including child find and evaluation and assessment.
 - b. Provisions included in the above do not apply to medical services or “well-baby” health care (see 303.13 (c) (1))
2. Funds under Part C may be used only for early intervention services that an eligible child needs but is not currently entitled to under any other federal, state, local, or private source.
 3. Non-reduction of Other Benefits- Nothing in Part C shall be construed to permit the state to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the state.
- **REIMBURSEMENT PROCEDURE (303.528)**
 1. Timely reimbursement of funds used under this part, in accordance with 303.527 (b) Interim payments--shall be reimbursed by the following procedures:
 - a. Early Intervention funds will be used to ensure delivery of services in a timely manner pending the resolution of disputes:
 - b. Upon receipt of written notification, the agency determined to have financial responsibility shall have a time limit of sixty days to provide reimbursement to the agency assigned financial responsibility for functions or services provided during the pendency of dispute;
 - c. Early intervention funds will be used to ensure delivery of services in a timely manner pending reimbursement from the entity that has ultimate responsibility for the payment.
 - d. Funds from the entity responsible for payment are reimbursed to the Department of Health and Senior Services via contract procedures under interagency agreements or grant/contracts.

M. DATA COLLECTION (303.540)

- The Department of Health and Senior Services has developed an Early Intervention Service Report that crosses over all funding programs administered by the Department.
 1. The report contains all of the data required by U.S. Secretary of Education including:
 - a. The number of children with disabilities by race and ethnicity who are receiving early intervention services; and
 - b. The number of children with disabilities, by race and ethnicity, who from birth through age two, stopped receiving early intervention services because of program completion or for other reasons. New Jersey does not currently serve at-risk infants and toddlers.
 2. The information gathered helps to determine if New Jersey is reaching ethnic and cultural populations.
 3. Data collection tracks Medicaid enrollment among the families served.
 4. New Jersey does not use sampling for data collection.
 5. The Department has developed language for grantees/contractors that provide early intervention services to address the data collection requirements in the law and regulations. These data collection procedures provide for reporting the data required under section 676 (b)(14) of the Act, and other information that is requested by the Secretary under Section 618 that relates to this part.

6. This information must be provided at the time and in the manner specified by the Secretary.

N. NATURAL ENVIRONMENTS (303.167)

- **Policy**

1. The Department of Health and Senior Services ensures that to the maximum extent appropriate, early intervention services are provided in natural environments and that the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.
2. The IFSP shall be in accordance with the requirements of Part C and shall include a statement of natural environments in which early intervention services shall appropriately be provided including a justification of the extent, if any, to which the services will not be provided in a natural environment.

- **Procedures**

1. The DHSS has developed the following strategies to ensure that the requirements of natural environments under Part C are met:
 - a. Grant/Contract Request for Proposal for service coordination and early intervention program providers includes information clarifying the responsibilities related to natural environments requirements of Part C.
 - b. A news and information handout on natural environments has been sent to all local agencies and other interested parties to share with all staff and families.
 - c. Service Guidelines on natural environments were established to include the mission of New Jersey's early intervention system, defining natural environments, literature review, beliefs about natural environments, and natural environments and the IFSP process.
 - d. Regional trainings on the IFSP process incorporates the natural environments requirements into all aspects of IFSP development. The training addresses revisions to the IFSP form, review of service guidelines and discussion of implementation strategies.
 - e. Grant/contracts and program review (monitoring) incorporates the natural environments requirements into the process.
2. Service Coordinators and early intervention program providers are responsible for ensuring that an IFSP includes a statement of the natural environments in which early intervention services will be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.
3. The decision of environment must be made by the team, including the parent(s) based upon the child's needs and with respect for the family's concerns, priorities, and patterns of interaction with their children. Besides the child's home, there are often other natural environments that could be considered as a possibility for service delivery. These include a child care setting, a family member's home, and other community settings in which children without disabilities participate.
4. If the team is considering the provision of services in other than a natural environment, sufficient justification must be included in the IFSP to support the decision that the outcomes for the child could not be met in a natural environment. No individual member of the team can unilaterally determine the environment for service delivery and the preferences of one team member cannot be considered acceptable justification for not providing services in the natural environment.
5. The IFSP team must ensure that the environment meets the child's needs. Every effort must be made to select an environment that the entire IFSP team, including the parent supports.

EDGAR DEFINITIONS

The following terms are from the Education Department General Administrative Regulations (EDGAR) requirements: (34 CFR 77.1)

- **Applicant** means a party requesting a grant or subgrant under a program of the Department.
- **Award** means amount of funds that the Department provides under a contract, grant, or cooperative agreement.
- **Contract** means (except as used in the definitions for “grant” and where qualified by “Federal”) procurement contract under a grant. (§74.3)
- **Department** means the U.S. Department of Education
- **EDGAR** means the Education Department General Administrative Regulations. (34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 86.
- **Fiscal Year** means the Federal fiscal year – a period beginning on October 1 and ending on the following September 30.
- **Grant** means an award of financial assistance, including cooperative agreements, in the form of money or property in lieu of money, by the Federal Government to an eligible grantee. (§74.3)
- **Grantee** means the nonprofit corporation or other legal entity to which a grant is awarded and which is accountable to the Federal Government for the use of the funds provided (§74.3)
- **Grant Period** means period for which funds have been awarded.
- **Private** as applied to an agency, organization, or institution, means that it is not under Federal or public supervision or control.
- **Public** as applied to an agency, organization, or institution means that the agency, organization, or institution is under the administration, supervision or control of a government other than the Federal Government.
- **Secretary** means the Secretary of the Department of Education or official or employee of the Department acting for the Secretary under a delegation of authority.